

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: SOUTHWEST IOWA RENEWABLE ENERGY, LLC	DOCKET NO. P-880
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PROPOSED DECISION AND ORDER GRANTING PERMIT

(Issued October 2, 2008)

APPEARANCES:

MR. PAUL E. HORVATH, Attorney at Law, Dickinson, Mackaman, Tyler & Hagen, P.C., 699 Walnut Street, Suite 1600, Des Moines, Iowa 50309, appearing on behalf of SIRE Commodities Grand Junction, LLC.

MR. JOHN F. DWYER, Attorney at Law, 310 Maple Street, Des Moines, Iowa 50319, appearing on behalf of the Iowa Department of Justice, Office of Consumer Advocate.

STATEMENT OF THE CASE

On June 16, 2008, Southwest Iowa Renewable Energy, LLC (SIRE) filed a petition and exhibits for a pipeline permit with the Utilities Board (Board). (petition for permit.) SIRE proposes to construct, operate, and maintain a new 4½-inch diameter steel natural gas pipeline approximately 0.65 miles long in Pottawattamie County, Iowa. (petition for permit; testimony of Mr. Lee; O'Neal report.) SIRE filed amendments to its petition and exhibits and provided additional information on July 7 and 22, 2008. (petition for permit; O'Neal report.) The proposed pipeline will transport natural gas from a connection with a Northern Natural Gas Company (NNG)

transmission pipeline southeast of Council Bluffs, Iowa, to the SIRE ethanol plant currently under construction southeast of Council Bluffs. (petition for permit; testimony of Mr. Lee; O'Neal report.)

On July 24, 2008, Mr. Jeffrey L. O'Neal, regulatory engineer for the Board, filed a report regarding the petition and proposed pipeline (O'Neal report). On August 12, 2008, the Board assigned this case to the undersigned administrative law judge. On August 15, 2008, the undersigned issued an order establishing a procedural schedule, proposing to take official notice, and providing notice of the hearing.

SIRE filed the prepared direct testimony of Mr. Douglas M. Lee on September 4, 2008. SIRE filed proof of publication of notice on September 26, 2008.

The hearing was held on October 1, 2008, in the Board's Conference Room 3, 350 Maple Street, Des Moines, Iowa. SIRE was represented by its attorney, Mr. Paul E. Horvath. Mr. Lee testified on behalf of SIRE. Mr. Lee is employed by InfraSource Underground Services, LLC (InfraSource) as vice-president of energy projects.

(testimony of Mr. Lee.) InfraSource is the authorized agent of SIRE to construct the proposed pipeline. (testimony of Mr. Lee.) Mr. David Hennen also testified on behalf of SIRE. The Consumer Advocate Division of the Department of Justice (Consumer Advocate) was represented by its attorney, Mr. John F. Dwyer. Mr. O'Neal testified as the engineer selected by the Board to examine the proposed route and permit application pursuant to Iowa Code § 479.11 (2007). At the hearing, SIRE agreed to file the following documents with the Board after the hearing: a) a copy of the

contract for operation and maintenance of the proposed pipeline between SIRE and the Black Hills Corporation, f/k/a Aquila, Inc. (Black Hills); and b) copies of the permissions, letters, permits, and approvals regarding the proposed pipeline that SIRE has received from the Iowa Department of Transportation, Pottawattamie County, the Iowa Department of Natural Resources, and the U.S. Army Corps of Engineers.

FINDINGS OF FACT

1. SIRE is a pipeline company within the meaning of Iowa Code § 479.2. (petition for permit; testimony of Mr. Lee; O'Neal report.)
2. On June 16, 2008, SIRE filed a petition and exhibits for a pipeline permit with the Board. (petition for permit.) SIRE proposes to construct, operate, and maintain a new 4½-inch diameter steel natural gas pipeline approximately 0.65 miles long in Pottawattamie County, Iowa, with a maximum allowable operating pressure of 720 pounds per square inch gauge (psig). (petition for permit; testimony of Mr. Lee; O'Neal report.) SIRE filed amendments to its petition and exhibits and provided additional information on July 7 and 22, 2008. (petition for permit; testimony of Mr. Lee; O'Neal report.)
3. The proposed pipeline must have a permit from the Board because it will operate at a pressure greater than 150 psig and because it will meet the definition of a transmission line. 199 IAC 10.16; 49 CFR 192.3. (petition for permit; testimony of Mr. Lee; O'Neal report.) It is a transmission line because it will transport natural gas from a transmission line to a large volume customer that is not

downstream from a distribution center, and because it will operate at a hoop stress of more than 20 percent of specified minimum yield strength (SMYS). 49 C.F.R. 192.3. (petition for permit; testimony of Mr. Lee; O'Neal report.)

4. SIRE caused notice of the hearing to be published in Pottawattamie County in the Council Bluffs Daily Nonpareil, a newspaper of general circulation in the county, on September 5 and 10, 2008. (proof of publication.)

5. The proposed pipeline will follow a route described in Exhibit A and shown on Exhibit B attached to the petition for a permit. (petition Exhibits A and B; testimony of Mr. Lee; O'Neal report.) There are no problems with the location and route of the proposed pipeline and no further terms, conditions, or restrictions regarding them need to be imposed pursuant to Iowa Code § 479.12. (petition for permit; testimony of Mr. Lee; O'Neal report.)

6. SIRE has received all required permissions, letters, permits and approvals from Pottawattamie County, the Iowa Department of Transportation, the Iowa Department of Natural Resources, and the U.S. Army Corps of Engineers for the proposed pipeline. (testimony of Mr. Lee, Mr. Hennen; petition for permit; O'Neal report.)

7. The proposed pipeline will transport natural gas from a connection with an existing NNG transmission pipeline southeast of Council Bluffs, Iowa, to the SIRE ethanol plant currently under construction southeast of Council Bluffs. (petition for permit; testimony of Mr. Lee; O'Neal report.) The proposed pipeline is necessary to serve the new ethanol plant. (petition for permit; testimony of Mr. Lee; O'Neal

report.) The ethanol plant is expected to produce approximately 110 million gallons of ethanol per year, will provide a new delivery point for area corn producers, and is expected to increase the price of corn in the area. (testimony of Mr. Lee; petition for permit.) Approximately 40 new jobs will be created at the ethanol plant, and the construction phase of the project will have a significant positive economic impact on the local economy. (testimony of Mr. Lee.) Therefore, the proposed pipeline will promote the public convenience and necessity. (petition for permit; testimony of Mr. Lee; O'Neal report.)

8. The proposed pipeline will comply with the design, construction, and safety requirements of Iowa Code chapter 479, 199 IAC § 10.12, and 49 CFR Part 192. (petition for permit; testimony of Mr. Lee, Mr. O'Neal; O'Neal report.) SIRE has contracted with InfraSource to construct the proposed pipeline. (testimony of Mr. Lee; petition for permit.) SIRE has awarded a contract for the operation and maintenance of the proposed pipeline to Black Hills. (testimony of Mr. Lee.) At the hearing, SIRE agreed to file a copy of the operation and maintenance contract with the Board. (testimony of Mr. Lee.) If the contract for operation and maintenance expires or is significantly changed, SIRE must file notice with the Board at least 30 days prior to expiration, or within ten days of the effective date of the change. Prior to operation of the proposed pipeline, SIRE must: a) file an operation, maintenance, and emergency plan as required by federal pipeline safety standards with the Board; and b) ensure that personnel who are qualified under applicable federal pipeline safety standards, including local personnel, are available for operation and

maintenance of the pipeline. No further safety-related terms, conditions, or restrictions need to be imposed pursuant to Iowa Code § 479.12. (petition for permit; testimony of Mr. Lee, Mr. O'Neal; O'Neal report.)

9. SIRE owns property subject to execution within this state, other than pipelines, of a value in excess of \$250,000, and thus meets the requirements of Iowa Code § 479.26 and 199 IAC 10.2(1)"d." (petition Exhibit D; testimony of Mr. Lee.)

10. No written objections to the petition for a permit were filed and no objectors appeared at the hearing. (testimony of Mr. O'Neal; Docket No. P-880 file.) SIRE does not request the right of eminent domain. (testimony of Mr. Lee; petition for permit.) SIRE has obtained the only voluntary easement needed for the proposed pipeline. (testimony of Mr. Lee; petition for permit.)

CONCLUSIONS OF LAW

1. The Board has the authority to grant, amend, and renew permits for the construction, operation, and maintenance of pipelines for the intrastate transportation of natural gas. Iowa Code §§ 479.1, 479.3, 479.4, 479.12, 479.18, and 479.29; 199 IAC 10.

2. The Board has jurisdiction over SIRE and over the petition for a natural gas pipeline permit it has filed. Iowa Code §§ 479.2, 479.3, 479.5, 479.6, 479.12, 479.18, and 479.29; 199 IAC 9 and 10.

3. The petition of SIRE for issuance of a permit for the natural gas pipeline in this docket should be granted. Iowa Code §§ 479.11, 479.12, 479.26 and 479.29; 199 IAC 9 and 10.

4. The land restoration plan filed by SIRE complies with the requirements of Iowa Code § 479.29 and 199 IAC 9. (petition for permit; O'Neal report; testimony of Mr. Lee.)

IT IS THEREFORE ORDERED:

1. Official notice is taken of the report dated July 24, 2008, filed in this docket by Mr. Jeffrey O'Neal, utility regulatory engineer for the Board.

2. Pursuant to Iowa Code chapter 479, the petition for a pipeline permit filed by SIRE in this docket is granted. A permit will be issued if this proposed decision and order becomes the final order of the Board.

3. SIRE must provide timely notice to the Board before beginning construction of the pipeline and must also file weekly progress reports with the Board during construction of the pipeline.

4. After SIRE completes construction of the new pipeline, it must file a construction completion report with the Board. This report must include information regarding any unusual construction problems or occurrences and a copy of the pressure test procedures used and the results obtained.

5. If the contract that SIRE has with Black Hills for operation and maintenance of the proposed pipeline expires or is significantly changed, SIRE must file notice with the Board at least 30 days prior to expiration, or within ten days of the effective date of the change.

6. Within 180 days after completion of the construction of the new pipeline, SIRE must file a map that accurately shows the location of the pipeline route

as constructed. The map will be a part of the record in this case and will represent the final route as authorized by the permit.

7. SIRE must file the documents discussed in this order with the Board.
8. Prior to operation of the proposed pipeline, SIRE must:
 - a. File an operation, maintenance, and emergency plan as required by federal pipeline safety standards with the Board; and
 - b. Ensure that personnel who are qualified under applicable federal pipeline safety standards, including local personnel, are available for operation and maintenance of the pipeline.
9. The Board retains jurisdiction of the subject matter in this docket.
10. This proposed decision will become the final decision of the Board unless, within five (5) days after the proposed decision is issued, a party files written notice of appeal with the Board or the Board votes to review the proposed decision on its own motion. Iowa Code § 17A.15(3); 199 IAC 7.26(2).

UTILITIES BOARD

/s/ Amy L. Christensen
Amy L. Christensen
Administrative Law Judge

ATTEST:

Judi K. Cooper
Executive Secretary

Dated at Des Moines, Iowa, this 2nd day of October, 2008.